



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

December 15, 2004

F2004-32

TO: All Fair CEO'S
Carnival Operators

SUBJECT: 2005 CARNIVAL PRE-QUALIFICATION SPECIFICATIONS FOR
OPERATING AT DISTRICT AGRICULTURAL ASSOCIATION FAIRS (DAA'S),
COUNTY FAIRS, OR CITRUS FRUIT FAIRS

Annually, the Division of Fairs and Expositions (F&E) requests that carnival operators desiring to enter into California fair carnival contracts submit pre-qualification paperwork and documents. The purpose of the *pre-qualification* process is to ensure that carnivals meet certain minimum requirements and qualifications (including have the required insurance) established to protect the interests of the State and the general public.

Last year, the pre-qualification documents were streamlined and several pre-qualification requirements were removed. This year another requirement has been removed. **Carnival operators will no longer be required to provide a \$50,000.00 performance bond in order to pre-qualify.** Note however, that it is the prerogative of any fair to add a bond requirement as part of their RFP process.

Another change is this year's process is that insurance policies and certificates are to be submitted directly to:

California Fair Services Authority

1776 Tribute Road, Suite 100
Sacramento, CA 95815
Attn: Lianne Lewellen

All other pre-qualification documentation (Exhibits A, B, and C) is still to be sent to F&E, Attn: Carole Poroshin. Upon review and approval of all documents by F&E and/or CFSA, F&E distributes a "*pre-qualification list*" to fairs and operators.





Carnival operators may apply for inclusion on the pre-qualification list any time, however:

- In order to be included on the **initial** *"pre-qualification list"*, carnival operators must submit the correct, required information as described in Attachment I to F&E by February 20, 2005.
- No carnival operator will be eligible to be awarded a contract for annual or secondary fair carnival operation unless the operator has submitted all paperwork and documents to F&E and been approved for placement on the pre-qualification list prior to the bid due date.
- Carnival operators with existing multi-year contracts typically must remain continuously pre-qualified as a condition of the contracts.
- If CFSA rejects any item as deficient, the operator will not be permitted to perform any contract until the operator has submitted a replacement that has been approved by CFSA.
- In the event any requested documents are not submitted, or are not signed as requested, or the validity of documents cannot be verified, or when submitted documents vary from or alter state requirements, the operator's name will not be placed on the *"pre-qualification list."*
- In the event an operator on the *"pre-qualification list"* is found to have submitted documents containing false or materially misleading statements in the opinion of F&E, the operator's name will be removed from the *list*, and the operator may not re-apply for placement on the *list* for the remainder of the calendar year. All applicants not placed on the *list* will be advised of their failure to be placed on the *list* and the reason for such failure. Any operator who is not placed on the *list* or is removed from the *list* may petition F&E for placement or replacement on the list. F&E will give the operator a right to a hearing. After the hearing, F&E will notify the operator of F&E's decision.
- Fair management may impose additional qualifying requirements for operations at their fair.





Page 3

- Carnival operators entering into contracts for independent midways or for non-fair interim rental of fairgrounds for carnival rides do not need to be on the Pre-Qualification List in order to enter into those contracts. However, they must meet all insurance requirements as set forth by the CFSA.

For your convenience, this Circular Letter with attachments is available on the California Department of Food and Agriculture website www.cdfa.ca.gov/fe/Contract_Forms.htm

Questions regarding carnival insurance requirements should be directed to Lianne Lewellen, CFSA at (916) 263-6145. Other questions regarding the carnival prequalification requirements should be directed to Carole Poroshin, F&E at (916) 263-2963.

Sincerely,

Sue Fick
Regulation and Contract Program Manager
Division of Fairs and Expositions

Attachments



ATTACHMENT I - CARNIVAL PRE-QUALIFICATION DOCUMENTS

To apply for placement on the "*pre-qualification list*", a carnival operator shall submit the following items:

Exhibit A-Declaration of Carnival Operator

Completed and signed.

Exhibit B-Ride, Game, Show and Food Concession List

Completed Exhibit "B" containing a true and correct listing of all rides/fun houses, shows, game concessions and food concessions which the carnival operator anticipates proposing to use at any fair during the coming year. For each item identified on Exhibit "B", the following information is to be provided, (1) the serial number, permit number or other means of positive identification for the items; (2) the present owner's name, contact address, and telephone number when not traveling with the carnival; and (3) identification of the ownership of the item during the past two (2) years.

By signing the Exhibit A, carnival operator certifies that they agree to provide F&E with updates to Exhibit B as soon as any additional rides/fun houses, shows, game concessions, or food concessions are acquired.

Exhibit C-Subcontractor's Certification

In any instance where the proposed carnival operator is not the owner of an item listed in Exhibit "B", the operator must submit a certification, signed under penalty of perjury by the legal owner of the item in the form attached hereto entitled Subcontractor Certification. These Subcontractor Certifications must be submitted on an annual basis. For any items added to Exhibit B during the year that are not owned by the carnival operator, a corresponding Subcontractor's Certification must be submitted.

Exhibit D-Insurance Requirements

Coverages and documents as described in Exhibit D. The provisions of Exhibit D are set by CFSA and subject to revision as deemed necessary by CFSA.

EXHIBIT A - DECLARATION OF CARNIVAL OPERATOR

I am the owner, partner, officer or director of _____
"carnival operator". The carnival operator does business under the following name:

_____ Fed. I.D. No: _____

Business Address: _____

Mailing Address: _____
(if different)

Phone _____ Fax _____ E-Mail _____

The carnival operator is a: (Check One)

_____ sole proprietorship _____ partnership _____ corporation _____ limited partnership

The persons who are authorized to enter into contracts on behalf of the carnival operator are as follows:

NAME

TITLE

I declare under penalty of perjury under the laws of the State of California that the statements made herein are true of my own knowledge, except as to those statements that are made on information and belief, and as to those statements, I believe them to be true. Exhibit "B" attached hereto contains a true and correct listing of all rides/fun houses, shows, game concessions and food concessions that the carnival operator anticipates proposing to use at any fair during the coming year

The proper licenses and/or permits have been obtained for all rides/fun houses, shows, game concessions, and food concessions supplied by the carnival operator prior to operating said rides/fun houses, shows, game concessions, and food concessions at any fair.

I understand that it is my responsibility to ensure that (1) all insurance policies, required licenses and permits, and statements are current and valid on the date submitted to F&E, at the time of bid due date and award of any contract and during performance of an awarded contract; (2) that lapses in insurance policies will result in removal from the "pre-qualification list," and if appropriate, immediate withdrawal of the award of a contract or termination for an existing contract without advance notification by the State, any district agricultural association or any citrus fair, or any county fair."

Signature

Dated

Signature

Dated

If carnival operator is a sole proprietorship, the sole proprietor must sign this declaration. If carnival operator is a partnership, all partners must sign this declaration. If carnival operator is a limited partnership, a general partner must sign this declaration. If carnival operator is a corporation, this declaration must be signed by both: (1) the Chairman of the Board, President, or any Vice President, and (2) the Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer.)

EXHIBIT B – RIDE, GAME, SHOW AND FOOD CONCESSION LIST

[illegible]

EXHIBIT C - SUBCONTRACTOR'S DECLARATION

I, _____, declare as follows:

I am the owner, or an officer or director of the owner ("owner"), of the items listed at the bottom of this subcontractor's declaration (attach additional sheet if necessary). I am providing this equipment to the following carnival operator ("operator") for use during the _____ year:

The statements made herein are true of my own knowledge, except as to those statements that are made on information and belief, and as to those statements, I believe them to be true.

The State of California, any district agricultural association, county fair or citrus fair is not a party to any agreement between me (the subcontractor), and the operator regarding the described items and concerning use of the items.

I hereby hold harmless the State of California, any district agricultural association, county fair or citrus fair from any and all liability arising from use of the item(s) at any time during its transportation to or from, during installation or removal from, or while in operation at any district agricultural association, county or citrus fair.

I am authorized to I sign contracts on behalf of the owner.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct and that this declaration is signed this _____ day of _____, 200__.

Legal Name of Owner_____

Phone Number _____

By _____

Signature	Title
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List of items

Name of Item

ID (Serial No., or Permit No., etc.)

[illegible]

EXHIBIT D INSURANCE REQUIREMENTS

I. INSURANCE COVERAGES

A. **COMMERCIAL GENERAL LIABILITY CARNIVAL OPERATORS/SUB-CONTRACTOR/BOOK-IN**

- 1. Option 1:** Copies of the actual insurance policies, certified by the underwriter, with coverage of not less than five million dollars (\$5,000,000) Combined Single Limits (CSL) per occurrence, at least as broad as the current Insurance Service Office policy form #CG 0001, for commercial general liability coverage issued by a company acceptable to the California Department of Insurance. Said policies shall insure the carnival operator and any subcontractor performing work for the carnival operator at a California fair for which the carnival operator is awarded a contract. Each ride, attraction, show, concession and off-road vehicle or golf cart, which will be operated or used during fair operations, must be included in the insurance coverage.

In light of past coverage problems with booked in rides, **particular attention will be paid to the requirement that the carnival operator's policy shall insure the carnival operator and any subcontractor performing work for the carnival operator at a California fair for which the carnival operator is awarded a contract. Each ride, attraction, show, concession and off-road vehicle or golf cart, which will be operated or used during fair operations, must be included in the insurance coverage.**

OR

- 2. Option 2:** The only acceptable alternative to umbrella coverage of all operations is for each subcontractor to also provide a \$5,000,000 policy meeting all applicable requirements, including the proper additional insured language. It is the responsibility of the primary carnival operator to ensure that certified copies of these sub-contractors' policies are submitted to CFSA. These requirements not only protect the fairs, but also protect the assets of the primary carnival operator from claimants alleging injuries on booked in rides.

Insurance requirements for subcontractor's providing food/game concessions are \$1,000,000 minimum commercial general liability per occurrence and it is the responsibility of the primary operator to ensure that certificates of insurance are submitted to CFSA

3. All Commercial General Liability policies must contain the following provisions:
 - a. That the insurance company will not cancel, suspend, or materially change the coverage provided without giving the Department of Food and Agriculture, Division of Fairs and Expositions **thirty (30) days advance written notice.**
 - b. That the State of California, any district agricultural association, county fair, the County in which the County Fair is located, citrus fruit fair, Lessor if Fair site is leased, or California Exposition and State Fair, their agents, directors, officers, servants, and employees are made additional insureds, **insofar as the operations under any contract for carnival operation with a California fair are concerned.**
 - c. The carnival operator's insurance coverage shall be primary and any separate coverage or protection available to the fair or any other additional insured shall be secondary
4. **The carnival operator must ensure that the following occurs in order to remain on the list:**
 - a. If the policy expires during the current or following calendar year the insurance company will provide a certified copy of the new or renewal policy to F&E **prior** to the expiration of the prior policy.
 1. If the insurer gives notice of cancellation under A.a.1. above, the insurance company shall provide evidence that the cancellation has been rescinded or a certified copy of a new policy shall be provided to CFSA **prior** to the effective date of cancellation.
 2. If the insurer has commenced proceedings, or has proceedings commenced against them, indicating the insurer is insolvent, a certified copy of a new policy issued by an insurer (not under such proceedings) shall be provided to CFSA as a condition to beginning or continuing operations at any fair. A binder of coverage from an insurer, agent or broker, guaranteeing the coverage for the carnival, State of California and fairs as required above will be acceptable.
 3. CFSA will carefully review carnival commercial general liability insurance policies for compliance with all criteria set forth in paragraphs above.

B. WORKERS COMPENSATION INSURANCE

Submittal of an insurance certificate to CFSA showing worker's compensation insurance coverage valid in the State of California is required for placement on the pre-qualified list and is a condition of beginning or continuing operations at any fair.

C. COMMERCIAL AUTOMOBILE LIABILITY INSURANCE

Evidence of current commercial automobile liability insurance, on a per accident basis, with limits of not less than \$1,000,000 combined single limits per accident for contracts involving use of contractor vehicles (autos, trucks or other licensed vehicles. This can be provided in the form of a certificate, or alternatively in the form of an endorsement to the commercial general liability policy provided by the carnival operator to CFSA as a condition for placement on the pre-qualified list and as condition of beginning or continuing operations at any fair.

D. GENERAL PROVISIONS

1. Deductibles are acceptable, however self-insured retentions are not acceptable without the submittal of additional information to CFSA.
2. It shall be a requirement of the contracting parties that coverage and protection shall be continuous. The carnival operator shall have an affirmative duty to guarantee that such coverage and protection are not interrupted. In the event the carnival operator does not provide continuous coverage, F&E, the fair and their agents, shall have the right to purchase appropriate coverages to protect the interest of F&E, the fair and their agents, as outlined above, and deduct the cost from the carnival contract.
3. Nothing herein shall be construed as limiting in any way the extent to which carnival operator may be held responsible for damages resulting from carnival operator's operations, acts, omissions or negligence. Insurance coverage obtained in the minimum amounts specified above shall not relieve carnival operator of liability in excess of such minimum coverage, nor shall it preclude the fair from taking other actions available to it under contract documents or by law, including, but not limited to, actions pursuant to carnival operator's indemnity obligations.